A/N 09/814,415 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert George Gilde et al.	Examiner:	Yemane M. Gerezgiher
Serial No.:	09/814,415	Group Art Unit:	2144
Filed:	March 21, 2001	Docket No.:	50002.7USU1
Title:	METHOD AND SYSTEM FOR OPTIMIZING A NETWORK BY INDEPENDENTLY SCALING CONTROL SEGMENTS AND DATA FLOW		

DECLARATION UNDER 37 CFR 1.131

WE, Robert George Gilde and Steven Lee Harms, citizens of the United States of America and residents of the state of Washington, declare:

1. We are the sole co-inventors of the subject matter claimed in the instant application (U.S. Application No. 09/814,415), filed March 21, 2001, and claiming the benefit under 35 USC §119(e) of U.S. Provisional Application No. 60/191,019, filed March 21, 2000, and entitled "METHOD AND SYSTEM FOR OPTIMIZING A NETWORK BY INDEPENDENTLY SCALING CONTROL SEGMENTS AND DATA FLOW").

2. We understand that U.S. Patent No. 6,650,641 ("Albert") has been asserted as a reference against the subject matter claimed in the instant application.

3. Albert has a filing date of July 2, 1999 ("critical date"), and was thus published less than one year prior to the priority date of the instant application.

4. We were in possession of the invention claimed in the instant application at and before the time of the publication of Albert and the invention worked for its intended purpose. In support of this statement, we attach exhibit A, which comprises redacted slides of a presentation made in our Seattle, Washington office (where we developed the invention) before the critical date and Exhibit B, which comprises excerpts of code

checked into a source control system before the critical date and source control log showing updates to the source code before the critical date.

5. Exhibit A, pages 1-10 show an apparatus for directing communications over a network. Please note that page 1 is substantially similar to Figure 1, page 2 is substantially similar to Figure 2, and page 3 is substantially similar to Figure 3 of the instant application. The exhibit shows (a) a control component (page 1) that receives a data flow requesting a resource and determines when the data flow is unassociated with a connection to a requested resource (page 4), wherein the control component associates a selected connection to the requested resource when the control component determines the data flow is unassociated with the connection to the requested resource (page 5). The CS performs payload translation which associates selected connections to the requested resources. The exhibit also shows (b) a switch component that employs the connection associated with the data flow to direct the data flow to the requested resource (page 1) wherein a capacity of the switch component and a capacity of the control component are independently scalable to support the number of data flows that are directed to requested resources over the network (page 6).

6. The exhibit shows a control component that categorizes a plurality of data packets for each data flow (page 7).

7. The exhibit shows a control component that determines when an event associated with the data flow occurs (page 8).

8. The exhibit shows a control component that categorizes each event (page 8).

9. The exhibit shows a flow signature that is associated with the data flow, where the flow signature is compared to a set of rules for handling each data flow that is associated with the connection to the requested resource (page 3).

10. The exhibit shows a flow signature that includes information about a source and a destination for each data packet in the data flow (page 9).

11. The exhibit shows a switch component that collects metrics regarding each connection to each resource (page 10).

12. The exhibit shows a server array controller that includes the action of the control component and switch component (page 5).

13. (Paragraphs 13—24 pertain solely to Steve Harms.) I wrote and superintended the code of Exhibit B that is used to implement the invention of the instant application. In particular, the code shows for an apparatus for directing communications over a network. The code in Exhibit B includes (a) a control component (page 1: lib_ssmb.c, v1.1.2.1, lines 362—408) that receives a data flow requesting a resource and determines when the data flow is unassociated with a connection to a requested resource (page 2, lib_ssmb.c, v1.1.2.1, lines 442–473), wherein the control component associates a selected connection to the requested resource when the control component determines the data flow is unassociated with the connection to the requested resource (pages 3-4, lib_ssmb.c, v 1.1.2.1, lines 474 - 562). The CS performs payload translation which associates selected connections to the requested resources. The exhibit also shows (b) a switch component that employs the connection associated with the data flow to direct the data flow to the requested resource (page 5, printers.c, v1.1.2.1, lines 84-144), wherein a capacity of the switch component and a capacity of the control component are

independently scalable to support the number of data flows that are directed to requested resources over the network (page 6, lib_ssmb.c, v1.1.2.1 lines 410-440).

14. The exhibit shows a control component that employs a buffer to list each data flow that is associated with the connection to the requested resource (page 7, bigip_internal.h, v1.114.2.7.4.2.4.1, lines 517 - 577).

15. The exhibit shows a control component that employs a table to list each data flow associated with the connection to the requested resource (page 8, bigip_internal.h, v1.114.2.7.4.2.4.1, lines 630-650).

16. The exhibit shows a control component that categorizes a plurality of data packets for each data flow (page 9, t_find.c, v1.35, lines 159-186).

17. The exhibit shows a control component that determines when an event associated with the data flow occurs (page 10, lib_ssmb.c, v 1.1.2.1, lines 364-408).

18. The exhibit shows a control component that categorizes each event (page 10, lib_ssmb.c, v 1.1.2.1, lines 364-408)

19. The exhibit shows a flow signature that is associated with the data flow, where the flow signature is compared to a set of rules for handling each data flow that is associated with the connection to the requested resource (pages 3-4, lib_ssmb.c, v 1.1.2.1, lines 465-562).

20. The exhibit shows a flow signature that includes information about a source and a destination for each data packet in the data flow (pages 3-4, lib_ssmb.c: v 1.1.2.1, lines 525-536).

21. The exhibit shows a flow signature that is associated with a timestamp (page 7, bigip_internal.h, v1.114.2.7.4.2.4.1, lines 517 – 577, see line 528).

22. The exhibit shows a switch component that collects metrics regarding each connection to each resource (page 11, agent.c, v1.1.2.1, lines 85-119, see lines 110-112).

23. The exhibit shows a server array controller that includes the action of the control component and switch component (pages 1-11 above, as well as page 12, README, v1.1.2.1, lines 1-23, showing inclusion of the implementing code in a single data structure).

24. The code that I wrote to implement the invention included numerous improvements to the code that were diligently made over a period of time prior to the critical date. Source control logs (see pages 13-16 of Exhibit B) recorded these dates and changes to the code as it was being developed in Seattle and are maintained in the ordinary course of business in the Seattle, Washington office. Accordingly, the logs (and other evidence above) show that the inventive acts occurred in the United States.

25. The code used to implement the invention (as mentioned above) was substantially working for its intended purpose prior to the critical date.

26. We, the undersigned inventors, declare that all statements herein made of our own knowledge are true and that all statements are made on information and belief and are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statement may jeopardize the validity of this application or any patent resulting therefrom.

Date

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June 15, 2005
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